

Notice of Allowability

Application No.

10/075,373

Applicant(s)

SOBOLESKI ET AL.

Examiner

Anu Ramana

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on July 21, 2006.
2. ☒ The allowed claim(s) is/are 19-28, 34-47, 50-54, 57-61 and 64-68.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 3/22/06; 7/18/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Anuradha Ramana
ANURADHA RAMANA
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700
Part of Paper No./Mail Date 20071001

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with the Attorney of Record, Stephen J. Scribner, on September 28, 2007. See attached Interview Summary.

The application has been amended as follows:

In the claims (see amendment filed on July 21, 2006):

In claim 19, line 2: replaced "unmodified" with - - intact - - to clarify Applicants' invention.

In claim 20, line 2: replaced "unmodified" with - - intact - - to clarify Applicants' invention.

In claim 28, line 2: replaced "unmodified" with - - intact - - to clarify Applicants' invention.

In claim 34, line 1: replaced "a healthy" with - - an intact - - to clarify Applicants' invention.

In claim 34, line 4: replaced "healthy" with - - intact - - to clarify Applicants' invention.

In claim 34, line 7: after "preserved" and before "." inserted - - such that scoliosis is treated - - to clarify Applicants' invention.

In claim 38, line 1: replaced "ailment" with - - abnormality of curvature - - to clarify Applicants' invention.

In claim 38, line 3: deleted "substantially or entirely" to clarify Applicants' invention.

In claim 38, line 4: replaced "ailment" with - - abnormality of curvature - - to clarify Applicants' invention.

In claim 39, line 1: deleted "a" to correct a minor typographical error.

In claim 39, line 2: after "joints" and before "." deleted "that are substantially or entirely intact" to clarify Applicants' invention.

Canceled claims 48-49, 55-56, 62 and 63.

It is noted that in light of the above claim amendments, the Examiner is withdrawing the restriction requirement made in the office action mailed on June 15, 2006, rejoining the claims and allowing the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anu Ramana whose telephone number is (571) 272-4718. The examiner can normally be reached Monday through Friday between 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR

October 1, 2007

Anuradha Ramana
ANURADHA RAMANA
PRIMARY EXAMINER
TECHNOLOGY CENTER 3700